

REMARKS

Status of the Claims

Claims 12-14 and 19 are pending. Claims 12-14 are amended. New claim 19 is added. Claims 1-11 and 15-18 are canceled without prejudice or disclaimer to the subject matter therein.¹

Support for the amended and new claims may be found throughout the specification and original claims as filed. *See, e.g.*, page 13, lines 17-18; page 15, lines 16-17; page 22, lines 23-26. No new matter has been added.

Sequence Compliance

The Office Action asserts that the instant application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825. *See* Office Action, pages 2-3.

Applicant has amended the specification to add SEQ ID NO: 35 to page 26 and SEQ ID NO: 36 to the description of Figure 1. Applicant also submits concurrently herewith a Second Substitute Sequence Listing and Statements Under 37 C.F.R. §§ 1.821 and 1.825. Applicant previously amended the specification to add a SEQ ID NO on page 4 of the specification. *See* Second Preliminary Amendment, filed January 19, 2007.

In view of the foregoing, Applicant submits that the application is compliance with 37 C.F.R. §§ 1.821-1.825.

Drawings

The Office Action objects to drawings because several of the figures are not properly numbered.

Applicant submits herewith replacement drawings for Figures 1 and 2. Applicant has also amended the specification to refer to the replacement drawings accordingly.

In view of the foregoing, Applicant respectfully requests withdrawal of the objections to the Drawings.

Rejections Under 35 U.S.C. § 101

Claims 12-14 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Specifically, the Office Action asserts that claims 12-14 fail to include any

¹ Claims 1-11 and 15-18 were previously withdrawn as being directed to a non-elected invention. *See* Office Action, page 2.

limitations which would distinguish the claimed ligands, polypeptides and antibodies from those which occur in nature. *See* Office Action, page 4.

Claim 12, as amended, recites an “*isolated antibody that selectively binds a polypeptide . . .*” (emphasis added). Accordingly, the rejections under 35 U.S.C. § 101 has been rendered moot.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 12-14 stand rejected under 35 U.S.C. § 112, 2nd paragraph as allegedly being indefinite.

Claims 12 and 14 are rejected over the terms “BACE455” and “distinctive fragment.” Applicant has deleted these terms from claims 12 and 14.

Claim 12 is rejected over the phrase “able to.” Applicant has deleted this phrase from claim 12.

Claim 13 is rejected over the phrases “a derivative of an antibody” and “a polypeptide comprising an antibody.” Applicant has deleted these phrases from claim 13 and amended claim 12 to recite an isolated antibody and identify derivatives of the antibody (e.g., single chain antibody).

Accordingly, the rejections under 35 U.S.C. § 112, second paragraph have been rendered moot.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claim 12 stands rejected under 35 U.S.C. § 112, 1st paragraph as allegedly failing to comply with the written description requirement. The Office Action asserts, *inter alia*, that claim 12 is directed to any ligand able to selectively bind a Bace455 polypeptide and does not require that the ligand belong to a certain class of molecules or possess any particular conserved structure. *See* Office Action, page 6. The Office Action acknowledges, however, that “it is clear that Applicant has possession of antibodies that bind to a polypeptide of SEQ ID NO: 2.” *Id.*

Applicant submits that this rejection has been rendered moot in view of Applicant’s amendments.

Claim 12, as amended, is directed to an antibody that selectively binds a polypeptide comprising at least SEQ ID NO: 3—a distinctive fragment of SEQ ID NO: 2 (Bace455 polypeptide)—corresponding to the junction region between amino acids encoded by exons 3 and 5. Claim 12 therefore requires that the claimed antibodies bind to a polypeptide that possesses a particular conserved structure. Applicant submits that the specification provides adequate written

description to reasonably convey to one skilled in that art that Applicant was in possession of the claimed antibodies.

Rejections Under 35 U.S.C. § 102(b)

Claims 12-14 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,420,534 (Gurney *et al.*, hereinafter “the ‘534 patent”).

Applicant submits that these rejections have been rendered moot in view of Applicant’s amendments.

Claims 12-14, as amended, relate to antibodies that selectively bind a polypeptide comprising at least SEQ ID NO: 3. The polypeptide of the ‘534 patent—huAsp2(b)—does not contain SEQ ID NO: 3. Accordingly, because the antibodies of the ‘534 patent cannot selectively bind to a polypeptide comprising SEQ ID NO: 3, the ‘534 patent does not anticipate the claimed invention.

Double Patenting

The Office Action advises that should claim 13 be found allowable, claim 14 will be objected to under 37 C.F.R. § 1.75 as being a substantial duplicate of claim 13.

Applicant submits that the amendments to claim 13 and 14 render this potential objection moot.

CONCLUSION

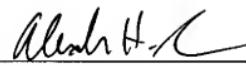
In view of the above remarks, early notification of a favorable consideration is respectfully requested. An indication of allowance of all claims is respectfully requested.

Respectfully submitted,

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